

Introduced by Senator Figueroa

February 16, 2005

An act to add Chapter 6 (commencing with Section 10700) to Part 2 of Division 2 of Title 2 of the Government Code, relating to international trade.

LEGISLATIVE COUNSEL'S DIGEST

SB 348, as amended, Figueroa. International trade: ~~joint committee.~~

~~Existing constitutional provisions authorize the Legislature to, by resolution, provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control.~~

~~This bill would express the intent of the Legislature to enact legislation to establish a Legislative Point of Contact on International Trade to serve as the Legislature's official liaison on international trade related matters and to require that both the Legislature and the Governor jointly consent before the State of California agrees to any provision of an international trade agreement.~~

Existing constitutional provisions authorize the Legislature to provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control.

This bill would require that the state's consent to be bound to any provisions of an international trade agreement, and the degree of that consent, be determined solely by statute. The bill would require that, within seven days of receiving a letter requesting the state's consent to

be bound to the provisions of an international trade agreement, the Governor notify the Legislature by submitting the letter, or copies of the letter, to the Senate Committee on Rules and the Office of the Speaker of the Assembly. The bill would require the Legislature to take legislative action to define the degree of consent to provisions of international trade agreements, including, identifying which branches, departments, and agencies of the state government that are bound by the provisions, and would further provide that if the Legislature does not take legislative action to consent to the agreement, the state is not bound to any provision of the international trade agreement. The bill would require that before any consent for the state to sign on to any provision of an international trade agreement, the Legislature and the Governor take joint affirmative action toward consent.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~legislation to establish a Legislative Point of Contact on~~
3 ~~International Trade to serve as the Legislature's official liaison on~~
4 ~~international trade related matters. It is further the intent of the~~
5 ~~Legislature to enact legislation to require that both the~~
6 ~~Legislature and the Governor jointly consent before the State of~~
7 ~~California agrees to any provision of an international trade~~
8 ~~agreement.~~

9 ~~SECTION 1. Chapter 6 (commencing with Section 10700) is~~
10 ~~added to Part 2 of Division 2 of Title 2 of the Government Code,~~
11 ~~to read:~~

12
13 CHAPTER 6. CONSENT TO BIND CALIFORNIA TO
14 INTERNATIONAL TRADE AGREEMENTS

15
16 10700. *The Legislature finds and declares all of the*
17 ~~following:~~

18 ~~(a) The United States participates in international trade~~
19 ~~bodies, including the World Trade Organization (WTO), and~~
20 ~~international trade agreements such as the North American Free~~
21 ~~Trade Agreement (NAFTA).~~

1 **(b)** *The consultation between the federal and state*
2 *governments required by both the WTO and NAFTA protocols*
3 *has not included formal or organized consultation with the*
4 *California State Legislature.*

5 **(c)** *California's role as a global leader on issues of economic*
6 *development, labor standards, human rights, consumer*
7 *protection, and environmental sustainability, and the*
8 *Legislature's role in enacting those standards, are subject to*
9 *challenge by international trade agreements.*

10 **(d)** *California laws are already being challenged under*
11 *existing international trade rules. NAFTA, which grants foreign*
12 *firms new rights and privileges for operating within a state that*
13 *exceed those granted to United States businesses under state and*
14 *federal law, has already generated two regulatory takings cases*
15 *against California laws protecting public health and governing*
16 *land use.*

17 **(e)** *Government procurement provisions contained in*
18 *international trade agreements affect the ability of states to enact*
19 *common economic development and environmental policies, such*
20 *as buy local laws, recycled content laws, and renewable energy*
21 *purchasing requirements. Government procurement provisions*
22 *subject such laws to challenge as barriers to trade as they*
23 *contradict the obligations in the international trade agreement.*

24 **(f)** *International trade agreements curtail state regulatory*
25 *authority by placing constraints on future policy options. The*
26 *WTO services agreement could undermine California's efforts to*
27 *expand health care coverage and rein in health care costs, and*
28 *places constraints on land use planning. New negotiations in the*
29 *services area will have additional implications for California's*
30 *regulation of water, energy, higher education, professional*
31 *licensing, and more.*

32 **(g)** *Existing international trade agreements have been*
33 *implemented and pending trade agreements are being negotiated*
34 *by federal government trade officials without providing for*
35 *review by California public officials concerned with state laws*
36 *and state lawmaking authority. Furthermore, federal government*
37 *trade negotiators have failed to consult with state legislators*
38 *when seeking the consent of states to comply with international*
39 *trade agreement provisions.*

1 (h) Consequently, a mechanism for federal government
2 international trade negotiators to consult with the California
3 Legislature prior to binding California to conform its existing
4 laws to the terms of international trade agreements is necessary
5 to ensure democratic accountability in international trade
6 agreements.

7 10701. (a) Whenever the President of the United States, or
8 the United States Trade Representative, submits a letter to the
9 Governor requesting the state's consent to be bound to any
10 provisions of an international trade agreement, including Free
11 Trade Agreements such as, the Central America Free Trade
12 Agreement and the South African Customs Union, the degree of
13 consent shall be determined solely by statute.

14 (b) Within seven days of receiving the letter specified in
15 subdivision (a), the Governor shall notify the Legislature by
16 submitting the letter, or copies of the letter, to the Senate
17 Committee on Rules and the Office of the Speaker of the
18 Assembly. The Senate Committee on Rules and the Speaker of the
19 Assembly shall then distribute the letter, or copies thereof, to the
20 appropriate committees for review.

21 (c) The Legislature shall take legislative action to define the
22 degree of consent to provisions of international trade
23 agreements, including identifying which branches, departments,
24 and agencies of the state government shall be bound by the
25 provisions.

26 (d) If the Legislature does not take legislative action to
27 consent to the agreement, the state shall not be bound to any
28 provision of the international trade agreement.

29 10702. (a) Consent for the state to sign on to any provision
30 of an international trade agreement shall occur only through a
31 joint affirmative action of the Legislature and the Governor.

32 (b) The Governor, or his or her designated trade
33 representative, shall inform the United States Trade
34 Representative of the state's decision regarding the degree of
35 consent to any provisions of any international trade agreements.